

WI Statute 115.797

- ▶ Moving from a culture of conflict to a culture of collaboration
- ▶ Drop in due process hearing requests
- ▶ Proactive use of conflict resolution or prevention
- ▶ Types of disputes under the statute:
 - ▶ Eligibility
 - ▶ IEP issues (content or implementation)
 - ▶ Educational placement
 - ▶ Provision of FAPE

3



IEP Facilitation or Mediation?

4

Differences between IEP Facilitation and Mediation

	IEP Facilitation	Mediation
Objective	Improve process for solving problems, making decisions, and increasing trust.	Negotiate a settlement to a defined dispute.
Timing	Typically, before an impasse is reached.	After an impasse is reached.
Method	Entire group stays together.	Entire group stays together or caucus.
Outcome	IEP is developed, revised, or is not.	Written agreement, legally binding in state and federal court.
Confidentiality	Does not apply.	Mediation confidentiality Wis. Stat. § 904.085 applies to process.
Participation	Entire IEP team.	Just the core decision makers.

5

The Role of the Neutral

IEP Facilitation

- ▶ Helps with meeting process, conflict prevention
- ▶ 3-hour time limit
- ▶ Assists with communication
 - ▶ Ensures open communication, active listening, and that everyone has a voice
- ▶ Agenda determined by IEP process and IEP team
- ▶ Focus is on developing the IEP/running the meeting
- ▶ Offers ways to address conflicts
- ▶ Not a decision maker or special education expert

Mediation

- ▶ Helps parties work to resolve specific dispute
- ▶ No time limit
- ▶ Neutral helps with resolution of underlying issues
 - ▶ Facilitate and structure the discussion between the parties
 - ▶ Information sharing & negotiation
 - ▶ Find common ground
- ▶ Neutral helps parties create agenda
- ▶ Helps parties determine who will participate
- ▶ Not a decision maker or special education expert

6

Similarities

- ▶ Modeling skills for future conversations
- ▶ The process is voluntary
- ▶ Ensure active listening
- ▶ Validation of common goals
- ▶ Keep momentum flowing
- ▶ Keeping the process focused on the child
- ▶ Avoid blaming, shaming, attacks
- ▶ Managing group dynamics
- ▶ Keep the group future focused

7

Requesting and Processing

8

When to Request Facilitated IEP



Early in the IEP process



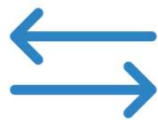
If you think an IEP meeting will be difficult (time management, keeping the parties moving forward, communication issues)



Available for any IEP meeting (initial, annual, review/revise)

9

When to Request Mediation



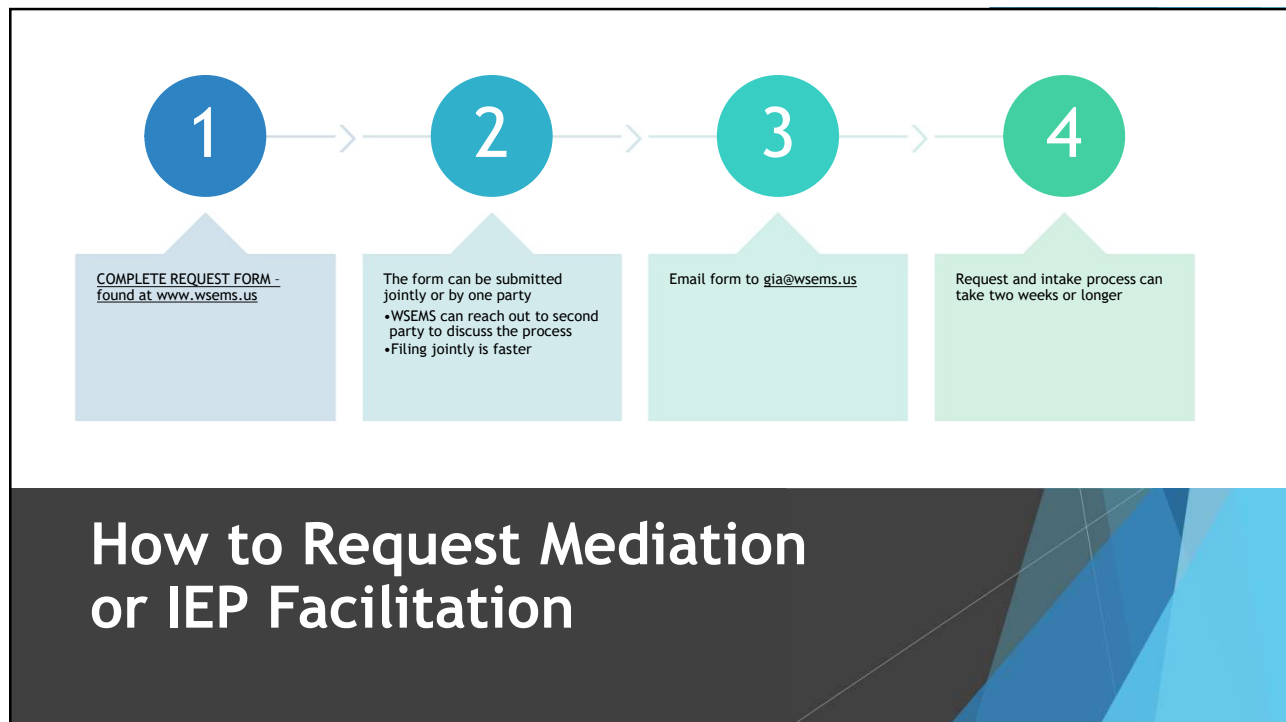
When you need help to settle a specific dispute, prior communication has not been productive, or an impasse has been reached.



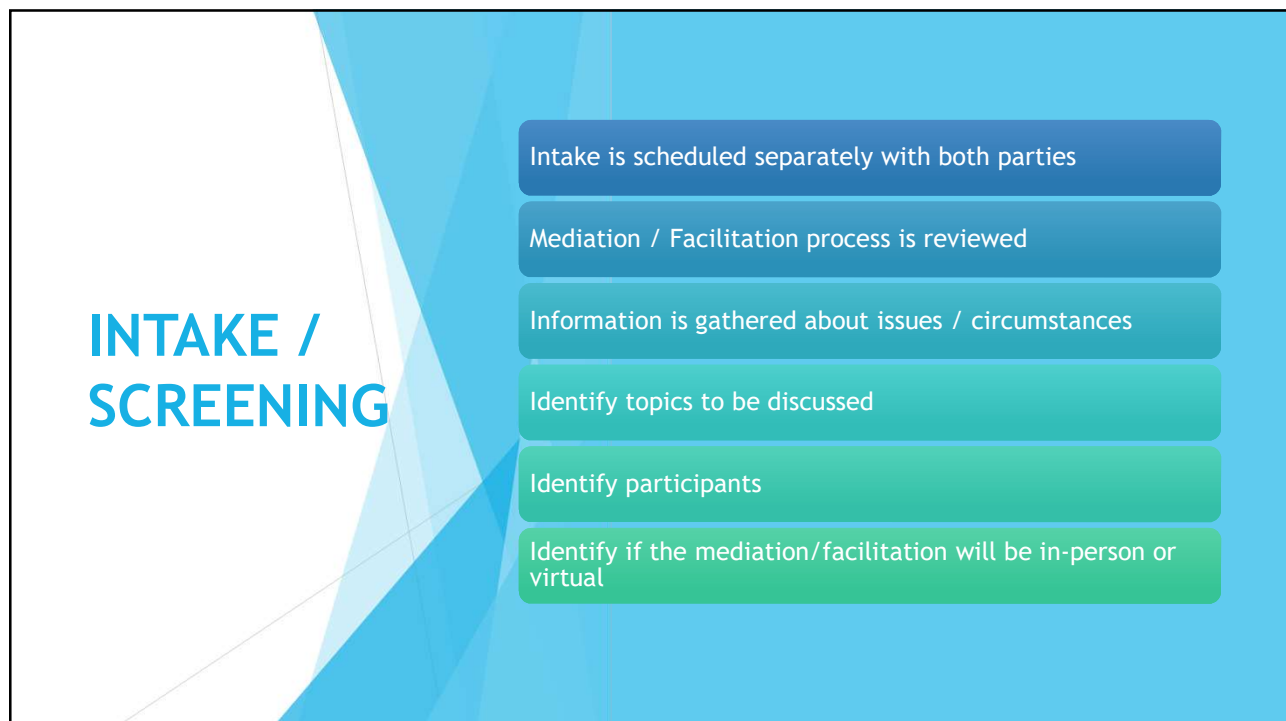
Other benefits:

- More creativity and flexibility to solve problems
- Forward-looking process (focus on the future)
- Cost savings
- The parties maintain control over the outcome
- Can improve relationship
- Process is voluntary and confidential
- Faster than other processes

10



11



12

Nomination

- ▶ Parties can nominate mediator/facilitator
- ▶ The names of nominees will be exchanged through system
- ▶ If there is no match, system will send out nominations for everyone to consider
- ▶ Once there is agreement, an email will be sent out to connect the parties to the mediator/facilitator
- ▶ The mediator will schedule the mediation with parties



13

Outcomes

Mediation Agreement rate is 87.2%

92.6% of the participants would use the same mediator again

Top issues: Placement & Denial of FAPE

Average length of mediation is 4 hours



Facilitation IEP developed rate is 85.7%

98.4% of the participants said they were satisfied with the overall process

Most common issues: Placement and Behavioral Intervention Plan

14

Questions for Panel



What kinds of issues are most well suited for mediation?



What kinds of issues are better suited for facilitation?



How to you recommend participants prepare for mediation/facilitation?



What do you think the biggest misconception is about mediation or facilitation?



What types of solutions have you reached through mediation that you may not have been able through the other dispute resolution processes?

15

Q&A



16